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Article — Digitized Version

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Intereconomics

Suggested Citation: Roberts, Michael; Wehrheim, Peter (2001) : Regional trade agreements and WTO accession of CIS countries, Intereconomics, ISSN 0020-5346, Springer, Heidelberg, Vol. 36, Iss. 6, pp. 315-323

This Version is available at:

<https://hdl.handle.net/10419/41115>

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Michael Roberts and Peter Wehrheim*

Regional Trade Agreements and WTO Accession of CIS Countries

The successor states of the Former Soviet Union which are today members of the Commonwealth of Independent States (CIS) for the most part began to liberalise their trade regimes in the early and mid-1990s. At the same time they have pursued two major long-term strategies in an attempt to foster their integration within the region and into the global trading system: First, various forms of bilateral and plurilateral regional trade agreements were formed. Secondly, with the exceptions only of Turkmenistan and Tadjikistan all CIS countries have applied for accession to the WTO. Given the plethora of bi- and plurilateral RTAs and arcane and inconsistent trade regulations, WTO membership is likely to be a sine qua non to rationalise the trade and integration strategies of the CIS countries.

Shortly after the collapse of the Soviet Union most of its successor states, with the exception of the Baltic States, joined the Commonwealth of Independent States (CIS). At the same time many CIS countries opened up their trade regimes by dismantling various trade restrictions, state trading monopolies, multiple exchange rate regimes as well as formal tariff barriers. However, in the course of the 1990s pressure for the protection of domestic industries has increased. Import tariffs on "sensitive imports", such as refined sugar, have started to pop up. By far the most serious barriers to trade and the ones most frequently used are non-tariff barriers. The ever more complex and constantly changing trade regimes of many CIS countries have also opened the door for corruption and smuggling.

Against this background it became obvious that the CIS countries had to search for a new trade strategy. Today two major strategies are being pursued: First, the CIS members have attempted to revive the trade ties among them by forming regional trade agreements (RTAs). Second, most CIS members have

officially applied for accession to the World Trade Organisation (WTO) and thereby aspire to closer integration into the global trade system. Negotiations over agricultural trade have featured prominently whenever CIS countries negotiated the terms of trade agreements and will therefore also receive some attention.

The objective of this article is to provide an overview of the various trading arrangements between the CIS as well as an up-date on their respective status with respect to WTO membership. The article is structured as follows. To start with, we address the question to which extent "regionalism or multilateralism" are substitutes or complements. Next we describe the status of all CIS members in their WTO accession negotiations and outline the disputes that arose in these negotiations over agricultural sector issues. We continue by discussing the various forms of bilateral and multilateral RTA the CIS members have engaged in. This is followed by a discussion of the drawbacks arising from the various overlapping forms of bi- and multilateral trade agreements of the CIS countries. The last part summarises the conclusions.

De jure versus de facto Regionalism

The past decade has seen a proliferation in regional trading arrangements. Nearly all of the WTO's 142 members (on July 26, 2001) have notified participation in one or more RTA. In the period 1948-1994, the predecessor of the WTO, the GATT, received 124

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notifications of RTAs (relating to trade in goods), and since the creation of the WTO in 1995, 90 additional arrangements covering trade in goods or services have been notified. Not all of these RTAs denote new efforts at co-operation between sovereign states. Out of the total of 214 agreements notified to the GATT/WTO, only 134 are deemed to be currently in force. Most of the discontinued RTAs have been superseded by redesigned agreements among the same signatories.¹

In the case of CIS countries a big gap between active and inactive RTAs is apparent. Therefore, the traditional theoretical classification of RTAs based on differing degrees of economic integration, even though valid, does not seem to reflect adequately the reality of these transition economy RTAs. Instead we propose to make a distinction between just two major forms of regionalism: *de jure* versus *de facto* regionalism.

Generally, regionalism, as opposed to multilateralism, is a centripetal process that involves the movement of two or more economies towards greater integration with one another. This process is driven either by political forces that are motivated by security, economic or other concerns or by microeconomic forces (such as firms, banks, people) often spurred by the pressure of competition. Whenever the first objectives dominate or are exclusive "*de jure* regionalism" might occur. *De jure* regionalism takes a variety of institutional forms ranging from "free" or preferential trade agreements to customs unions or common markets and economic unions. These institutional arrangements have in common the exercise of extra-economic powers of state to lower barriers, especially policy barriers, to intra-regional economic activities. "*De facto* regionalism", in contrast, necessitates both the political will and the support from an economic constituency. It takes the form of significant cross-border trade and investment flows due to geographical and/or cultural proximity leading to growing regional integration. Whether either form of regionalism reinforces or jeopardises the multilateral trading system remains an open question but it is likely that to some effects the balance of benefits may depend on the institutional form of agreements.

WTO Rules on RTAs

The increasing popularity of regional integration has raised questions as to the compatibility of RTAs with the principles of the over-arching architecture of world trade: the multilateral agreements which make up the

WTO. A 1995 study by the WTO Secretariat on Regional Trading Arrangements concluded that "... To a much greater extent than is often acknowledged, regional and multilateral integration initiatives are complements rather than alternatives in the pursuit of more open trade." RTAs and closer economic integration can also be beneficial for the multilateral negotiations on trade liberalisation. However, it is also recognised that under some circumstances regional trading arrangements could hurt the trade interests of other countries, because of which the WTO has created rules on how to deal with RTAs.

Normally, setting up a customs union or free trade area would violate the WTO's "most-favoured-nation" principle which assures equal treatment for all trading partners. However, three WTO articles provide derogations from this principle. Article XXIV of the GATT (complemented by an "Ad Art XXIV", and updated by the 1994 Understanding) allows regional trading arrangements to be set up under certain conditions. Article XXIV contains the primary provisions covering customs unions (CUs), free trade areas (FTAs) and interim trade agreements (necessary for the formation of CUs and FTAs). It is based on four main criteria: Duties and other restrictive regulations of commerce must be eliminated (XXIV:8) on "substantially all trade" between constituent territories of a customs union or free trade area. Interim arrangements leading to the formation of a free trade area or customs union should exceed ten years only in exceptional circumstances.

Furthermore, Article V of the General Agreement on Trade in Services allows WTO members to sign regional agreements on services provided that such agreements have substantial sectoral coverage, eliminate existing discriminatory measures and/or prohibit new or more discriminatory measures. Finally, the "Enabling Clause" allows derogations from the most-favoured nation treatment principle in favour of developing countries and permits preferential arrangements among developing countries in goods trade. To ensure that RTAs meet these criteria, the WTO Committee on Regional Trade Agreements was created in 1996.

Therefore, WTO rules on RTAs have some important grey areas, most notably over the questions of what constitutes "substantially all trade" and what

¹ WTO: Document facilities on accession negotiations (www.WTO/ACC/name of country/ No. of country document); various released documents provided by CIS countries in the process of WTO accession on WTO homepage.

restrictions may continue to apply between customs union or free trade area members. Article XXIV:8, requiring the elimination of all internal barriers on "substantially all trade", aims at preventing countries from setting up RTAs that insulate less efficient sectors from import competition. In practice, no consensus has been achieved as to what constitutes "substantially all trade". As a result most RTAs have excluded, at least initially, some sensitive product lines, if not entire product sectors. Not surprising is the observation that agriculture is often considered to be one such sensitive sector and, therefore, often excluded from RTAs.

RTAs and Rules of Origin

The existence of an RTA does not necessarily imply that products traded among RTA members enter the importing country under the preferential tariff regime. The reason is that the economic and administrative costs of satisfying rules of origin within the RTA may be so high that importers prefer to face the most-favoured-nation (MFN) tariff.

Establishing origin can be a laborious process. If the difference between the MFN and the preferential tariff is high, incentives for corrupt practices by customs officials and traders may arise. Customs delays can arise while documentation is verified, arcane rules on what level of processing of finished goods may confer origin are checked and customs officials decide on a final classification. Research conducted for the WTO Secretariat suggests that the total economic cost of ascertaining the origin of a product (for the customs authority and importer) may be on average equal to 5% of the value of the product. The study concluded that when imports come into a country under tariff lines where the MFN tariff is lower than 3%, the economic incentive to satisfy rules of origin disappears – that is to say that the costs of administration outweigh the revenue collected. Indeed the total costs of rules of origin for firms are calculated to be at least 2% of the value of the imported goods.

In order to prevent rules of origin being used as a disguised restriction on trade, the Uruguay Round of the GATT reached an Agreement on Rules of Origin. The agreement aims at long-term harmonisation of rules of origin and ensuring that such rules do not themselves create unnecessary obstacles to trade. For rules of origin governing the granting of tariff preferences, the WTO agreement included a "common declaration". It stipulates that the general

principles and requirements applied to non-preferential rules of origin as contained in the Agreement apply also to preferential rules of origin. The agreement also set up a harmonisation programme, to be conducted by a Committee on Rules of Origin in the GATT and a technical committee under the auspices of the Customs Co-operation Council in Brussels.

CIS Countries' Status in the WTO

Currently the WTO has 142 members and about 30 countries are applying for membership. However, WTO accession is a highly complex process. Due to the large number of countries that have applied for WTO membership during the last 10 years the accession process has also become highly formalised. While this is mandatory to avoid conflicts between WTO and new members after accession, the laborious process of accession mandates high administrative capacities and skills on the side of the acceding country. For many transition economies the complexity of the accession process has been cumbersome with lengthy negotiation periods and associated political problems in maintaining momentum and commitment to the process².

With respect to their WTO accession status, the CIS countries can be grouped into three categories: First there is Georgia, the Kyrgyz Republic and Moldova which are already members of the WTO.³ The second, and largest group, consists of CIS member countries that have applied for membership and which are in the process of negotiating the terms of accession (Armenia, Azerbaijan, Belarus, Kazakhstan, Russia, Ukraine and Uzbekistan). Within this group either the Ukraine or Armenia may be the next candidate to conclude the negotiations successfully. Third, Turkmenistan and Tadjikistan have not formally applied yet for WTO membership. Table 1 presents an overview of the accession status of the CIS countries and summarises the most important issues with respect to the negotiations on agriculture.

Curiously, one reason to join the WTO may be to strengthen trade leverage over other CIS trading partners that remain outside the WTO. Membership is concluded on the basis of terms to be agreed with all

² C. Michalopoulos: 'WTO accession for countries in transition, Policy Research Working Paper No. 1934, The World Bank, Washington, D.C. 1998.

³ More details on CIS countries and their agricultural trade situation can be obtained from the TACIS-project site (www.aris.ru/WIN_E/).

Table 1
Overview of WTO Accession Status of CIS Member Countries and Agricultural Sector
Issues in Accession Negotiations in early 2001

Country	WTO accession process and current status		
	Application for WTO membership	1st Working Party meeting	Current status of negotiations
Armenia	Nov. 1993	Jan. 1996	Ongoing bilateral negotiations
Azerbaijan	June 1997	-	Negotiations on trade memorandum
Belarus	Sept. 1993	June 1997	Ongoing bilateral negotiations
Georgia	July 1996	March 1998	Accession in October 1999
Kazakhstan	Jan. 1996	March 1997	Negotiations on trade memorandum
Kyrgyz Rep.	Feb. 1996	March 1997	Accession in December 1998
Moldova	Nov. 1993	June 1997	Negotiations completed, Accession in 2001
Russian Fed.	June 1993	July 1995	Ongoing bilateral negotiations
Ukraine	Nov. 1993	Feb. 1995	Close to agreement
Uzbekistan	Dec. 1994	In 1995	Negotiations on trade memorandum; many unsettled issues

Source: WTO documents on accession negotiations with CIS countries and TACIS-SIAFT 2000/3.

existing members. Once a country has acceded to the WTO, it may sit on the accession working party of another applicant country. To give an example, as a member of the WTO, the Kyrgyz Republic is now able to sit on the Working Party on Accession of the Russian Federation. As such, it may request bilateral consultations with trade negotiators from Russia over restrictive trade measures taken against its exports – notwithstanding the fact that it is also a signatory to bilateral and plurilateral trade agreements with Russia. Hence once in the WTO a country will have an opportunity to extract trade concessions that may not have been possible in a bilateral negotiation.

So WTO accession may provide greater opportunities to extract concessions from CIS trading partners than existing RTAs – particularly where there is major imbalance in economic power between the two trading parties. Hence, for example, there is a clear interest on the part of Ukraine to accede to the WTO ahead of the Russian Federation so as to be able to extract import trade concessions – for example in the sugar sector.⁴ Although membership of regional RTAs may at first sight suggest that a co-operative approach should be adopted with CIS countries seeking to negotiate en masse, the actual mechanics of the process may turn it into a competitive process.

Agricultural Issues in the WTO **Accession Negotiations**

In the case of CIS countries with substantial natural resource endowment agricultural trade issues seem to create high hurdles in the race towards WTO membership. According to Mike Moore, Director General of the WTO in 2001, in the WTO accession

negotiations with Russia the most difficult issues requiring resolution were linked to agriculture. Generally, countries aspiring to become WTO members are obliged to accept the complete range of legal commitments that today constitute the “*acquis WTO*”. At the same time, many legal bodies of the WTO leave ample room for negotiations. This is particularly so in the case of agriculture. Even in developed countries the assessment of the wide range of trade and domestic agricultural policies has been cumbersome. Notwithstanding, the WTO’s rules for liberalising agriculture have been defined in the Agreement on Agriculture at the end of the Uruguay Round of multilateral negotiations. These rules set the stage for acceding countries. After an assessment of the country-specific agricultural policy, each CIS country has to enter into commitments in three main areas: domestic support, market access and export competition. On domestic support, the obligations cover the level of production stimulating (or amber box) support that may be offered. If amber box support surpassed a trigger level during a three-year base period, then the country must engage in reduction commitments for production stimulating support above that level (5% of the value of agricultural production).⁵ First, reductions in the degree of domestic support granted to agriculture. Secondly, it has to accept tariff bindings (which set upper threshold levels for tariffs) and progressive stepped reductions in these tariffs. Thirdly, if export subsidies were used during the reference base period, it has to offer cuts in the area of export subsidies.

⁴ S. Trofimovich, F.A. Antonovich: Conditions and perspectives of GATT/WTO membership of Ukraine. Report prepared for the TACIS-Project SIAFT 2000, Kiev/Moscow.

However, the WTO accession of other countries in the recent past has shown that the specific terms of agricultural trade liberalisation can differ substantially. It should be stressed in this respect that the terms of accession are worked out with other members and as such may deviate from the letter of the WTO Agreements.

Disputes arose over the question of which reference base period should be used to determine commitments on amber box domestic support to agriculture. Furthermore, the definition of average upper bounds of agricultural import tariffs created substantial controversies. Generally, negotiations have been speeded up in those cases where the CIS countries' average tariff rates were generally low and uniform. Georgia, for instance, had relatively low average trade weighted tariffs of agricultural commodities of 4.9% in 1997 and 10.3% in 1998. In order to reduce the obligations to liberalise agricultural trade some CIS countries applied for developing country status. Neither country was granted this request, although the Kyrgyz Republic was able to negotiate the right to use input and investment subsidies (normally open only to developing country members), even though it is not a developing country. This anomaly has been jumped by other transition economies as a key demand in the on-going talks in the WTO on further trade liberalisation.

Another issue of concern is so-called second level (or sub-national) support schemes. In the case of the Russian Federation the bulk of agricultural policy expenditure shifted from the federal to the regional level in the 1990s. Regional governments have implemented various consumer subsidies, export bans and price controls for agricultural and food commodities in the 1990s.⁶ Therefore, the WTO working party established for the accession negotiations with Russia was requested in 1999 and 2000 to provide detailed insight into the various forms of laws and regulations including direct financial flows on the regional level. These second level policies could be a major impediment in Russia's accession.

Bilateral Trade Agreements between CIS Countries

Parallel to WTO accession negotiations, a large number of regional trade arrangements have been signed among the member states of the CIS since the demise of the USSR. These trade agreements can be separated into two groups: bilateral agreements and plurilateral agreements.

Nearly all CIS countries have signed bilateral free trade agreements (FTAs) with each other. These FTAs are generally concerned with the granting of mutually advantageous terms and conditions for trade and economic co-operation. Under these agreements, the parties undertake to refrain from applying quantitative restrictions to the import and export of goods. They generally include all goods and services but sometimes they include a list of products exempted from the free trade regime. Often such exemptions are made for agricultural products. Quantitative restrictions generally aim to limit non-authorized re-exports of goods or to protect the internal market or the balance of payments.

Though most CIS countries have FTAs with each other on a bilateral basis, not all of them are practically implemented or enforced. Table 2 below shows bilateral agreements between CIS countries and those which are actually in force and operating.

Taking the example of Armenia, it has bilateral FTAs with six CIS countries but only the one with Russia is really operational due to the absence of significant trade flows with the other CIS partners. The FTA with Russia initially included a significant list of products for which the free trade did not apply, but trade has been subsequently liberalised and substantially all trade between Armenia and Russia was free as of April 1997.⁷

Bilateral FTAs also exist between CIS and third countries, e.g. between the EU and most CIS countries, between Moldova and Romania, and Moldova and Iran, etc. Most CIS countries had signed a Partnership and Co-operation Agreement with the European Union, based on reciprocal application of the MFN principle; moreover goods traded between the partners are free of quantitative restrictions. There are, however, exceptions for certain products in the steel, textiles and nuclear sectors. Most of these agreements with the EU foresee the establishment of a free trade regime when the CIS partner becomes a member of the WTO.

⁶ A common misconception in the CIS is that the WTO requires the phasing out of all forms of domestic support. Commitments cover only production stimulating support and not such policies as infra-structural development, training, rural development or public stock-holding for food security – termed Green Box in WTO jargon (and appearing in Annex 2 to the Agreement).

⁶ O. Melyukhina, P. Wehrheim: Russian Agricultural and Food Policies in the Transition Period: Federal and Regional Responsibilities in Flux, Discussion Paper Series "Russia's Agro-food Sector in Transition", Institut für Ernährungswirtschaft, Verbrauchslehre und Welternährungswirtschaft, Universität Kiel, No. 5, September 1996, 42 pp.

⁷ WTO accession documents for Armenia (www.WTO/ACC/ARM/8, p. 39).

Table 2
Bilateral FTAs between CIS Countries

	Arm	Aze	Bel	Geo	Kaz	Kyr	Mol	Rus	Taj	Tur	Ukr	Uzb
Armenia	=			x		x	x	x	x		x	
Azerbaijan		=		x			x	x			x	
Belarus			=				x	x			x	
Georgia	x	x		=	x		x	x		x	x	x
Kazakhstan					=	x	x	x	x		x	
Kyrgyz Republic	x				x	=	x	x			x	x
Moldova	x	x	x	x	x	x	=	x		x	x	x
Russia	x	x	x	x	x	x	x	=	x	x	x	x
Tajikistan	x				x				=			
Turkmenistan				x			x	x		=	x	
Ukraine	x	x	x	x	x	x	x	x		x	=	
Uzbekistan				x		x	x	x				=
	x	Signed										
	x	In force										

Source: Various WTO documents on CIS accession negotiations.

Implementation of Bilateral Agreements

Implementation and enforcement of bilateral FTAs among CIS countries is patchy. With the exception of Armenia, all CIS countries have signed at least one bilateral FTA agreement which has not been implemented and, therefore, ought to be classified as *de jure* regionalism. Where FTAs have been implemented various non-tariff measures often hamper trade among the signatory countries. In addition, in bilateral agreements, for instance some of those with Russia or Kazakhstan, the list of products exempted from the free trade regime is extensive. Furthermore, since the Russian rouble crisis of 1998, the number of tariff and non-tariff measures used to restrict trade between signatories to RTAs has risen considerably. The following measures have been identified as having grown in number and usage: trade bans, export restrictions, import tariff measures, and non-tariff measures.⁸

The cumulative effect of these restrictive trade measures is to nullify many of the benefits of RTAs to agro-food trade in the CIS. In 1996, during the WTO negotiations, Russia acknowledged that about 40% of trade between CIS countries with which Russia had bilateral FTAs was in goods not subject to a free trade regime.⁹ It should be noted that bilateral FTAs with such a high share of trade exempted from free trade would not normally comply with Article XXIV of WTO which requires that "substantially all trade" be free of duties and other regulations of commerce. Even where countries have ventured into a deeper form of integration, there are doubts as to their long-term sustainability.

The deepest form of bilateral integration is that between Belarus and Russia. In 1994, both countries

signed a treaty on creating an Economic and Monetary Union which provided for a multistage approach to regional integration. A free trade area was created in which no taxes were levied on bilateral trade. Then a *de facto* customs union was created when Belarus introduced the same foreign trade regulation enforced by Russia – although import tariffs have yet to be harmonised. The customs border between the two countries was abolished in 1995. In 1997, both countries decided to go further and a Russian-Belarusian agreement on integration was signed in 1997 with a second following in 2000. The agreements call for the creation of a common economic sphere, with a common currency and unified tariff and trade policies in the future. It also creates supra-national bodies, a Supreme State Council, a union parliament and a Council of Ministers. A third treaty of late 2000 includes a series of accords intended to move toward joint use of the Russian rouble by January 1, 2005 and a joint currency by 2008.

Under the terms of the proposed Union of Russia and Belarus, each country formally retains its sovereignty over its external trade regime. There is no formal division of tariff revenues and the latter are allocated according to the final destination (Russia or Belarus) indicated in the customs declaration. Also of note is the fact that each country is negotiating independently to arrange joining the WTO. Though both countries abolished customs on the border, in 2000 they restored customs checkpoints in order to

⁸ For more details on these issues see TACIS-SIAFT 2001 (www.aris.ru/WIN_E/).

⁹ WTO accession documents for Russia (www.WTO/ACC/RUS/9/Add.1, no.83).

collect duties on goods imported from third countries as well as to crack down on the transport of illegal goods to/from third countries. Despite these obstacles and difficulties, Belarus and Russia remain the two closest CIS countries.

Plurilateral Agreements between CIS Countries

In addition to the plethora of bilateral agreements between CIS countries, a number of plurilateral agreements have been developed since the collapse of the USSR. Taken together, the agreements represent a first attempt to forge new political, security and economic alliances between Republics of the former USSR, rather than any systematic framework for stimulating and managing regional trade relations.

In addition to the agreements with other CIS countries, some countries (Azerbaijan, Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan) are also members of the Economic Co-operation Organisation (ECO) which includes Afghanistan, Iran, Pakistan and Turkey. ECO is an inter-governmental regional organisation devoted to the socio-economic development of its ten member states. The ECO has focused on the gradual elimination of tariffs and the promotion of the free flow of goods and capital among its member states. Discussions have also included the harmonisation of customs rules, the set up of free trade areas and border markets. Six CIS countries, Armenia, Azerbaijan, Georgia, Moldova, Russia and Ukraine, are also members of the Black Sea Economic Co-operation Organisation, established in 1992, together with Albania, Bulgaria, Greece, Rumania and Turkey.

GUUAM: In 1996, Georgia, Ukraine, Azerbaijan and Moldova set up "a mutual support group" called GUUAM. After Uzbekistan joined in 1999, the group became known as GUUAM. In 2000 the GUUAM countries announced they would establish a free-trade zone besides the creation of transit routes and military assistance that remain the group's main features. The GUUAM is mainly a regional alliance without a formal structure. Its main success has been in the military sphere and in particular in arms-control position issues. However, in recent months Ukraine has taken a lead in drafting proposals towards the creation of a free trade zone. Offices of "GUUAM national co-ordinators" have been created in each of the five member countries to speed up the implementation of the grouping's goals, in particular to enhance regional economic co-operation through development of an Europe-Caucasus-Asia transport corridor and

the establishment of an FTA. The GUUAM is often seen as an alternative to the CIS. Most of the GUUAM countries have been critical of failure by the CIS to establish an FTA among member states during the nine years of its existence. The GUUAM reunites some countries that are amongst the most advanced on the path of economic reforms in the CIS region. Georgia is already a member of the WTO; Moldova became a member of the WTO in 2001. In fact, one of the goals of the GUUAM member states is the harmonisation of legislation with WTO standards through the synchronisation of reforms; the fostering of economic and trade relations; and the creation of a mechanism of multilateral co-operation in the framework of GUUAM.

Central Asian Economic Union (CAEU): The Central Asian Union (grouping Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan) was formed in 1994 as a regional integration arrangement, but it was only in 1998 that it became the Central Asian Economic Union (CAEU). The CAEU Treaty stipulates that a legal, economic and structural framework should be established to enable a free flow of goods, services, capital and labour among member countries. It provides for a gradual co-ordination of transportation and communications networks, unification of antitrust regulations and investment and tariffs policies, simplification of customs regulations, and setting a network of joint ventures and banking institutions. Despite differences in their development policies, Central Asian states have integrated their countries in the hope of creating economies of scale by pooling together and using efficiently all available resources. In 1998, Tajikistan became a full member of the Union after becoming an observer three years earlier. That leaves only one Central Asian state outside, Turkmenistan, which espouses the policy of positive neutrality and non-participation in any multilateral arrangement. Russia has held an observer status with the Union since August 1996.

Eurasian Economic Union (EEU): Russia and two other CIS countries – Kazakhstan and Belarus – established a customs union (CU) in 1995. Kyrgyz Republic joined in March 1996 and Tajikistan in 1999. The text of the customs union provided for discontinuation of all trade tariffs between member countries, tariffs for trade with other countries were adjusted to one level and the system of privileges was unified. In addition, certain measures were taken to unify tax policy (tax rates and application of indirect taxes). The agreements on the customs union called for co-ordination of customs, excise, and value-added dues

and taxes in trade among the four (now five) countries and between them and foreign partners. Despite recent agreements among the five states, the implementation of the CU is still problematic and a *de facto* customs union has not yet been achieved. Internal customs have been abolished only between Russia and Belarus and it has not proved possible to harmonise the legal basis of trade with third countries. With the partial exception of Belarus, the customs union's non-Russian countries have an overriding interest in trading with countries outside the CU and in encouraging Western investments. The Central Asian countries invoke the customs union when criticising Russian protectionist measures against some of their "traditional" exports to Russia. Furthermore, the CIS customs union has been criticised for impeding trade between Asian members and European CIS non-members.

Trade in agricultural goods is particularly hit. For instance, imports of sugar from Ukraine to Central Asian members are hampered by the fact that they transit in Russia (sugar is a major trade dispute between Russia and Ukraine). The Kyrgyz Republic has also been criticised by the other CIS-CU members over its accession to the WTO. When the Kyrgyz Republic joined the WTO the reaction of other CIS-CU was clearly in opposition to the stated provisions of the customs union. Both Kazakhstan and Uzbekistan introduced discriminatory tariffs on agricultural imports from the Kyrgyz Republic.

Commonwealth of Independent States (CIS): The Commonwealth of Independent States (CIS) was formally established by the Treaty of Almaty in December 1991 right after the dissolution of the Soviet Union. CIS members decided to strengthen traditional economic links by setting out a series of economic and policy goals in the Statute of the CIS of 1993. Furthermore, a host of institutional arrangements has been implemented in order to consult and co-ordinate not only economic policies. In 1993, CIS countries committed themselves to the gradual creation of an economic union between themselves. Georgia, Turkmenistan and Ukraine did not sign the agreement. The treaty envisioned the creation of a common economic space with free movement of goods, services, capital and labour through a multi-stage process starting with a multilateral free trade area and culminating in monetary union. The CIS Agreement on the Creation of an Economic Union was a framework agreement which required separate agreements in specific areas of economic activity to become effective. However, no free circulation of

goods, services, capital or manpower had yet been implemented on the basis of this agreement.

In 1994, CIS member states signed an agreement on the establishment of a Free Trade Agreement so as to implement the provisions of the treaty on the economic union. Agreement on the FTA was signed by all parties but ratified only by Azerbaijan, Kazakhstan, Kyrgyz Republic, Moldova, Tajikistan and Uzbekistan. Russia, Belarus and Armenia have still not ratified the FTA agreement. Kyrgyz Republic has also notified this FTA-CIS under Article XXIV of WTO and the Agreement is now under examination at the WTO Committee on Regional Trade Agreements.

The Agreement on Creation of Free Trade Area within the CIS bound signatories not to impose import or export duties or quantitative restrictions on goods originating in signatory countries. The Agreement provided that the parties would agree on goods to be excluded from the free trade regime, though this listing has not been prepared. This, in fact, indicates that the Agreement "On Creation of Zone of Free Trade of the Commonwealth of Independent States" has not been implemented. Instead, the CIS-FTA is losing its ability to function as an integrating framework, and disintegration, rather than integration, is occurring within the CIS. It has also been estimated that, at most, only 5-10 percent of decisions taken by the CIS supranational bodies are ever implemented.

Nevertheless, the CIS countries have continued their efforts to integrate their economies by trying to improve the provisions of the FTA. Part of these efforts were to focus on one sector in which it was expected that more coherent trade strategies would be most beneficial. Already in 1994 negotiations on a Common Agrarian Market (CAM) began and the agreement was signed at a CIS Summit in Moldova in October 1997. Azerbaijan and Uzbekistan did not sign the agreement in 1997, though Uzbekistan has subsequently signed up. However, to date, the creation of a Common Agrarian Market within the CIS countries has not started yet and is another example of a *de jure* agreement among CIS countries.

Evaluation of current CIS Trade Strategies

From the preceding discussion one message that comes through strongly is that what exists on paper in the form of RTAs between CIS countries does not match with the reality of trade on the ground. Most other trade arrangements among CIS countries represent *de jure* instead of *de facto* regionalism. The customs union between Russia and Belarus might be

considered the only exception from this rule. The best proof for this observation can be found in the fact that intra-CIS trade dropped by 70% between 1991 and 1999.

As plurilateral agreements have not been implemented, economic relations among the CIS countries are regulated mainly through the aforementioned patchwork of bilateral agreements. The bilateral FTAs among CIS member states are by and large the only trade arrangements practically implemented in the CIS region, at least as far as tariff measures are concerned. However, of the 70 bilateral free trade agreements between CIS countries only 44 have been implemented. And even where tariffs are not applied, a series of non-tariff barriers denude the free trade provisions of agreements in the agricultural sector. Moreover, temporary tariff barriers are also periodically introduced, as for instance after the Russian rouble crisis of 1998.

While the political impetus for integration may be strong, economic attractions are in practice more limited. Indeed, the growth in non-tariff barriers to trade among CIS countries may indicate greater eagerness to replace CIS imports either with domestic production or third country imports.

The architecture of plurilateral trade arrangements among CIS countries has many overlapping and, in some cases, contradictory provisions. It is not clear how bilateral and plurilateral agreements relate to each other. For example, in addition to being a signatory to the GUUAM agreement, Armenia has bilateral free trade agreements with Georgia, Moldova, the Ukraine and Uzbekistan – all other GUUAM members. Armenia also has bilateral free trade agreements with Tajikistan, Russia and the Kyrgyz Republic. Russia is a member of the Eurasian Economic Union along with Tajikistan and the Kyrgyz Republic and the latter two countries are also members of the Central Asian Economic Union. All countries have also signed the agreement on creation of a CIS Free Trade Area. As each agreement has its own list of exceptions and special provisions, traders and customs officials could be forgiven if they are confused as to which rules apply.

In practice the only way to be able to decide on the right duty payment is on the basis of the documentation presented at the border. However, customs authorities within the CIS do not have standardised operating procedures or documentation requirements. This gives customs officials significant discretion when deciding on what documentation

needs to accompany a consignment. Given that the decision will be between whether or not a duty needs to be paid, one can see that this situation creates incentives to corrupt practices by traders and officials. As a result of these incentives, the emphasis tends naturally to fall on customs obstruction rather than clearance. Non-recognition of sanitary and phytosanitary product certification issued by agencies in other CIS countries is thus common as are unreasonable requests for further or spurious documentation. Without clear rules in RTAs between countries on such issues as mutual recognition of product certification agencies and documentation, certificates of origin and the level of processing required to confer origin, the scope for obstruction of legitimate trade becomes very large.

Conclusions

Ten years after the break up of the USSR, CIS countries are still struggling to find the appropriate format to govern their mutual trade relations. At present a patchwork of half-implemented bilateral agreements and a series of paper framework agreements govern intra-CIS trade relations. Most of the RTAs among CIS member states remain *de jure* agreements. If one were to characterise this institutional framework, one might term it "managed disintegration". Agricultural trade, once having been of pivotal importance for inter-regional commerce during the days of planned trade between CIS members, is today more often than not a matter of trade conflicts. Unless a commonly accepted strategy to agricultural trade liberalisation between the CIS members is agreed, agricultural trade disputes could prove a serious obstacle to reviving formerly close trade relations.

WTO accession should speed up the process of trade liberalisation by codifying trade liberalisation into the laws of each applicant country. However, until all CIS countries are members, it may engender competition between CIS states. When an applicant country becomes a WTO member it can sit on the Working Party of other applicant members. This gives the new member the right to engage in multilateral and bilateral discussions on market opening with applicant countries. For a country such as Ukraine facing trade obstacles to exports to Russia in certain sensitive sectors it would thus make sense to try to extract concessions by joining the WTO ahead of Russia. The same conclusion can be drawn for most CIS applicant countries facing trade restrictions in partner countries.